

REMARKS

Reconsideration and allowance for the above-identified application are now respectfully requested. Claims 1-10 were pending at the time of the last examination. Claim 1 is cancelled without prejudice herein; Claims 2-5, 9 and 10 are amended herein; and Claims 11-19 are added herein. Accordingly, upon entry of the above-identified amendments, Claims 2-19 will be pending.

Section 1 of the Office Action acknowledged applicants' claim for foreign priority and required a certified copy of the foreign application be filed. A certified copy of the foreign priority application was provided to the WIPO. Attached as Exhibit A is a copy of a notification from the International Bureau acknowledging proper receipt of the priority document. It is the undersigned's understanding that this completes Applicants' duties in supplying the priority document, and that the United States Patent and Trademark Office is to acquire the priority document from the WIPO. The Examiner is respectfully requested to contact the undersigned if this understanding is not correct.

Section 3 of the Office Action objected to several informality in the claims, which are corrected by amendment herein.

Section 5 of the Office Action rejected Claims 1 and 9 under 35 U.S.C. 102(b) as being anticipated by United States patent number 5,519,689 issued to Kim (hereinafter referred to simply as "Kim"). Claim 1 is cancelled without prejudice herein. Accordingly, the rejection is rendered moot with respect to Claim 1. Claim 9 is amended herein to recite that the first shared resource is a radio base station. As the Office Action correctly stated with respect to Claim 2, "Kim did not recite the radio base station as in claim 2." For at least the same reason as noted by the Office Action with respect to Claim 2, Kim likewise does not disclose the radio base station as recited in the amended Claim 9. Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejection is respectfully requested. More regarding why Claim 9 is not obvious over the cited references either singly or in combination will be explained below with regards to the rejection of Claim 2 under 35 U.S.C. §103(a).

Section 7 of the Office Action rejected Claim 2 under 35 U.S.C. §103(a) as being unpatentable over Kim in view of United States patent number 3,725,787 to issued to Featherston (hereinafter referred to simply as "Featherston"). Claim 2 (as amended) recites "a radio base station" that includes a "traffic control means [that] carries out traffic control of the

data to be transmitted to a local switch through a transmission path between the radio base station and the local switch for transmitting data between the radio base station and the local switch, from among the data received by said receiving means."

As the Office Action correctly acknowledges, "Kim did not recite the radio base station as in claim 2." Although Kim does not teach or suggest a radio base station, the Office Action asserts that "Featherston teaches that it is known to provide a digital two-way radio communication system having control at the base station over the flow of traffic." The Office Action references column 2, lines 48-59 as support for this assertion. Accordingly, the Office Action concludes that Claim 2 is obvious over the combination of Kim and Featherston. Applicants respectfully traverse.

As shown in Figure 1 of Featherston, the communication system of Featherston is a system in which a central station (i.e., a base station) (see the upper half of Figure 1) and a subordinate station (see the lower half of Figure 1) directly communicate with each other. Accordingly, the system has nothing to do with a local switch. Specifically, the system receives a message input at an input device 12 and is output at a printer 34. Conversely, a message input at a keyboard 36 is output at an output device 14. Accordingly, Featherston does not disclose, teach or suggest a recited feature of the present invention of claim 2 that "traffic control of data to be transmitted to a local switch through a transmission path between the radio base station and the local switch" is carried out. Accordingly, for at least these reasons, Claim 2 is not anticipated nor rendered obvious in view of Kim or Featherston.

Moreover, since neither Kim nor United States patent number 5,627,837 issued to Gillett (hereinafter referred to simply as "Gillett") disclose, teach or suggest a radio base station, Kim and Gillett also do not anticipate nor render obvious Claim 2, either singly or in combination. Accordingly, Claim 2 is not anticipated by nor rendered obvious over Kim, Featherston, and Gillett, either singly or in combination. Claim 3 depends from Claim 2, and is thus not anticipated by nor rendered obvious over Kim, Featherston, and Gillett, either singly or in combination.

Claim 9 recites "carrying out traffic control of data to be transmitted to said local switch through said second shared resource from among the data received" and "wherein the first shared resource is a radio base station". Accordingly, for at least the reasons provided for Claim 2,

Claim 9 is not anticipated by nor rendered obvious over Kim, Featherston, or Gillett, either singly or in combination.

Section 8 of the Office Action rejected Claims 3-7 and 10 under 35 U.S.C. §103(a) as being obvious over the Kim in view of Gillett.

Claim 3 is not obvious over the combination for at the reasons provided above.

Claim 4 recites "carrying out the traffic control for the data received by said receiving means such that a cumulative transmission volume in a traffic monitoring period defined by taking account of a proper period does not exceed an allowed transmission volume based on a traffic rate." Gillett discloses an invention that solves a problem in conventional protection switching based on a bit error ratio (BER). In that case, since switching is carried out even if the burst error period is short, error due to traffic lost by the switching exceeds burst error (see column 2, lines 19-33). More particularly, Gillett discloses that error counters 6E, 6W, 6HP and 6LP monitors traffic for a predetermined period of time to detect an error ratio, and for example, in a case where an error ratio of a main optical fiber cable 4E is high and an error ratio of a backup optical fiber cable 4W is low, a cable to be used is switched from the cable 4E to the cable 4W (see column 4, line 48 to column 5, line 5, column 11, lines 38-46, and Figures 1 and 7).

In Gillett, the predetermined period of time for which the traffic is monitored is determined based on the data rate of the traffic to be monitored and the desired bit error ratio threshold for protection switching (see column 5, lines 42-57). However, the data rate of the traffic to be monitored and the desired bit error ratio threshold have nothing to do with "a proper period" (i.e., a period at which data takes place in a burst mode). In other words, the period at which data takes place in a burst mode has nothing to do with the data rate of the traffic to be monitored and the desired bit error ratio threshold.

Therefore, Gillett does not disclose that "carrying out the traffic control for the data received by said receiving means such that a cumulative transmission volume in a traffic monitoring period defined by taking account of a proper period does not exceed an allowed transmission volume based on a traffic rate" as recited in Claim 4. Furthermore, since neither Kim nor Featherston disclose a period at which data takes place in a burst mode, Kim and Feathers also do not disclose "carrying out the traffic control for the data received by said receiving means such that a cumulative transmission volume in a traffic monitoring period

defined by taking account of a proper period does not exceed an allowed transmission volume based on a traffic rate" as recited in Claim 4.

The Office Action seems to assert with respect to Claim 8 that Featherston (which relates to a radio communication system) suggests a radio frame. However, even if Featherston suggests a radio frame, it cannot be inferred solely from the idea that a radio frame is used for a radio communication alone that a traffic monitoring period is defined by taking account of the period of the radio frame.

Therefore, the Claim 4 is not anticipated nor rendered obvious over Kim, Featherston, and Gillett, either singly or in combination. Claims 5-8 depend, directly or indirectly, from Claim 4, and thus are patentable of the cited art for at least the reasons provided above for Claim 4. Claim 10 recites "carrying out the traffic control of the data received such that a cumulative transmission volume in a traffic monitoring period defined by taking account of the proper period does not exceed an allowed transmission volume based on a traffic rate" and thus is also patentable over the cited art for at least the reasons provided above for Claim 4.

Claims 11-19 are newly added claims. Since none of Kim, Featherston, or Gillett disclose traffic control in a LAN, a PBX or a gateway switch, Claims 11 through 19 are also not anticipated nor rendered obvious over the cited references, either singly or in combination.

In view of the amendments made herein and in light of these remarks, Applicants respectfully request withdrawal of the pending rejections. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 17<sup>th</sup> day of June, 2003

Respectfully submitted,



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